

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 13-CR-0074 (PJS/FLN)

Plaintiff,

ORDER ADOPTING REPORT AND
RECOMMENDATION

v.

MICHAEL ANDREW SCHLEGEL, a/k/a
Mike Schlegel; and BRADLEY MARK
COLLIN, a/k/a Brad Collin,

Defendants.

Benjamin F. Langner and Tracy L. Perzel, UNITED STATES ATTORNEY'S OFFICE,
for plaintiff.

Daniel L. Gerdts for defendant Michael Andrew Schlegel.

Shannon R. Elkins, OFFICE OF THE FEDERAL DEFENDER, for defendant Bradley
Mark Collin.

This matter is before the Court on the objection of defendant Bradley Mark Collin to the August 14, 2013¹ Report and Recommendation ("R&R") of Magistrate Judge Franklin L. Noel. In that R&R, Judge Noel recommends denying Collin's motion to dismiss Count One of the indictment.² ECF No. 52 at 2-3.³ The Court has conducted a de novo review. *See* 28 U.S.C.

¹Although Judge Noel's R&R is dated August 14, 2013, it was not filed on CM/ECF until the following day.

²Judge Noel also recommends that the Court deny defendant Michael Andrew Schlegel's motion to dismiss Count Two of the indictment; deny Schlegel's motion to suppress statements; deny without prejudice Schlegel's motion to dismiss the indictment for prejudicial delay; deny as moot Schlegel's motion to suppress search and seizure evidence; and deny as moot Schlegel's motion to suppress unconstitutional identifications. Schlegel has not objected to the R&R, and the Court adopts the R&R in all respects with respect to Schlegel.

³The R&R was filed as both ECF No. 51 and ECF No. 52. Those documents appear to be identical.

§ 636(b)(1); Fed. R. Crim. P. 59(b)(3). Based on that review, the Court overrules Collin's objection.

As the R&R explains, Count One of the indictment alleges that, from at least 2002 until at least 2010, Schlegel and Collin conspired to prevent the IRS from collecting personal income taxes owed by Schlegel and Collin — with respect to both previously assessed and ongoing tax liabilities. Count One also alleges that one of the conspirators (Schlegel) committed multiple overt acts to further the conspiracy after April 9, 2007. Specifically, Count One alleges that, in furtherance of the conspiracy alleged in Count One, Schlegel caused TMM/NatureRich to file false corporate tax returns on September 17, 2007, September 15, 2008, September 22, 2009, and September 15, 2010. It is possible that the evidence at trial will fail to prove a connection between Schlegel's filing of the false corporate tax returns on those dates and the conspiracy alleged in Count One — and, if that happens, Collin can renew his motion to dismiss Count One. At this point, however, Count One clearly alleges that one of the conspirators committed overt acts in furtherance of the conspiracy after April 9, 2007, and thus Collin's motion to dismiss Count One as barred by the statute of limitations is denied.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court **OVERRULES** defendant Bradley Mark Collin's objection [ECF No. 57] and **ADOPTS** the August 14, 2013 R&R [ECF Nos. 51 & 52]. Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Collin's motion to dismiss Count One of the indictment [ECF No. 30] is **DENIED.**

2. Defendant Michael Andrew Schlegel's motion to dismiss Count Two of the indictment [ECF No. 35] is DENIED.
3. Schlegel's motion to dismiss the indictment for pre-indictment delay [ECF No. 36] is DENIED WITHOUT PREJUDICE.
4. Schlegel's motion to suppress search and seizure evidence [ECF No. 39] is DENIED AS MOOT.
5. Schlegel's motion to suppress unconstitutional identifications [ECF No. 40] is DENIED AS MOOT.
6. Schlegel's motion to suppress statements [ECF No. 41] is DENIED.

Dated: September 5, 2013

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge